

Council on Worker's Compensation
Meeting Minutes
Madison, Wisconsin
July 22, 2004

Members present: Ms. Bean, Mr. Beiriger, Mr. Brand, Mr. Buchen, Ms. Connor, Mr. Furley, Mr. Gordon, Ms. Huntley-Cooper, Mr. Kent, Mr. Newby, and Mr. Shaver

Excused: Ms. Vetter, Mr. Welnak

Staff present: Mr. Conway, Mr. O'Malley, Mr. Shorey, Mr. Krueger, and Ms. Knutson

1. Call to Order. Ms. Huntley-Cooper convened the Worker's Compensation Advisory Council (WCAC) meeting in accordance with Wisconsin's open meetings law. She introduced and welcomed Ms. Michelle Bean, Storenso NA, and Mr. James Furley, General Motors United Auto Workers, to the Council.

2. Minutes. Mr. Newby moved adoption of the minutes of the February 25, 2004 meeting as corrected; Mr. Brand seconded the motion. The motion was unanimously approved.

3. Subcommittees – Medical Cost Study Committee and Permanent Total Disability Rate Committee: Ms. Huntley-Cooper indicated that the subcommittee members had been appointed and the mission statements were adopted. Mr. Greg Krohm was introduced as the chair of the Medical Cost Study Committee. The first meeting was scheduled for August 16, 2004. Mr. Krohm indicated that the committee would begin with a review of medical cost data.

Mr. Conway is the chair of the Permanent Total Disability Rate Committee. He stated that the first meeting of the Permanent Total Disability Rate Committee was scheduled for September 8, 2004. Both committees will work with the Council and make recommendations. If anyone has questions or issues to be addressed by the committees, they may contact the committee chairs via e-mail.

4. Budget Update: Ms. Huntley-Cooper explained that in the biennial budget, the Governor asked the departments to reduce the state employee workforce. The Worker's Compensation Division (WCD) was part of that reduction. Two hundred twenty-one positions in the Department of Workforce Development (DWD) were eliminated. Originally, 11 positions in WCD were identified for elimination. However, in looking at the program, it was fortunate that only 8 positions were identified for elimination. Out of eleven positions: 3 were vacant (administrative assistant, a staff support position, and a research analyst). The Federal Bureau of Labor and Statistics positions were identified in the budget reduction. One staff person is still employed with WCD. The other individuals in those positions were reassigned within WCD or DWD.

WCD has two technical assistant positions; one has been identified in the budget reduction. Regarding the research positions, DWD is searching for other agencies to handle the data collection, with no results. Currently, the budget is under discussion with no definite plans for reductions. The Governor's message on position reductions is public information.

Mr. Shaver inquired if the assessments carriers pay are applied to the WCD's budget. Ms. Huntley-Cooper advised him that assessments from insurers and self-insured employers fund the worker's compensation program. Mr. Shaver commented that WCD was asked to reduce staff, but not by the people who were funding the program and the people who the program served. Mr. Conway explained that the fiscal year runs from July 1 through June 30. In December the WCD sends out assessments for projected costs for the fiscal year. The assessment is calculated as a percentage of first closed indemnity cases paid by the insurer or self-insured employer. All program costs are assessed to the insurers and self-insured employers. With budget reductions, unspent money remains in an account as unexpended funds. In the following year, projected costs are reduced by money left over from the previous year when assessments are calculated. Future assessments are lowered when there are budget reductions.

Mr. Newby asked if OSHA research is funded through federal funds. Ms. Huntley-Cooper confirmed that two positions in the WCD were funded through federal funds. Mr. Newby questioned if the WCD's capacity to collect data will be lost with the reduction of the positions. Ms. Huntley-Cooper replied that the reductions limit the WCD's ability to respond to outside inquiries for research. Internal requests would still be addressed. The WCD would also be seeking assistance from other divisions within DWD for labor market information. As far as future staff reductions, WCD was just in the process of identifying positions and it was a tough assignment. No positions had been identified yet, but it was anticipated that the plan would be completed in the near future.

Mr. Newby questioned if there was an estimate as to the amount of general program revenue (GPR) funds saved as a result of staff reductions in the WCD. Mr. Conway responded that the WCD's positions are not funded through GPR. Mr. Newby stated that the WCD was following a directive to eliminate positions regardless of savings to taxpayers.

Mr. Newby moved that the Council direct Ms. Huntley Cooper to send a letter to Secretary Roberta Gassman with a copy to Governor Doyle, expressing the extreme concern of the WCAC that positions and functions within the WCD are being eliminated with no savings to the taxpayers of Wisconsin. The positions are funded by sources other than state tax dollars. There has been no other reason given for downsizing positions and functions within the WCD. Mr. Furley seconded the motion. Mr. Beiriger stated the money coming from the assessments to the carriers becomes part of the premium base and the cost of doing business in Wisconsin. It is in everyone's best interest that the WCD be minimally but adequately staffed. Losing positions has a

backsliding effect for the program. Mr. Newby indicated that the directive to downsize the WCD had no relationship to the efficiency of the program. There has been no audit for program efficiencies that has recommended elimination of positions. Rather, the administrator has been directed to cut a set number of positions and to figure out which positions to eliminate, when elimination of positions within the WCD has no effect on alleviating the state's budget deficit. The motion was unanimously approved.

5. Correspondence/Appearance Requests: The Council received one item of correspondence from Chiropractor Patrick Andersen. He expressed concern regarding the limitation of payment of chiropractic care and the dispute resolution process. He requested the opportunity to address these issues with the Council. Mr. Newby suggested that the WCAC meetings begin with 15 minutes set aside for public comment. Written comments may also be provided to the Council. Chiropractor Andersen will also be informed of the opportunity to present comments at the upcoming public hearing scheduled for December 8, 2004.

6. Council Protocol/Structure Update: Mr. Conway indicated that the WCD would add an item to the agenda of the regular WCAC meetings to provide for public comment. The issues of WCAC protocol and structure will be addressed by the Council gradually at future meetings, covering one or two topic areas each meeting. The department will assemble previous documents and summaries of work performed in past years on these issues.

The agreed bill process is not codified. The process will be clarified and summarized in writing. Correspondence addressed to the Council will be presented at meetings and a letter will be sent to the author. Council minutes will be posted on the web site and the person may be invited to a meeting for follow-up discussion. The WCD will begin by assembling information for orientation of new WCAC members. Mr. Gordon suggested that orientation materials be sent also to current WCAC members.

Mr. Newby indicated that the Council makes decision via consensus and that process should not be too formal. The process has worked well over the years. Mr. Beiriger indicated that the Council is interested in receiving information on the division's critical indicators. Mr. Conway clarified that some indicators are compiled monthly while others are compiled quarterly. The division will compile possibilities of data reporting for the Council's next meeting.

Mr. Shaver suggested that the Council be contacted regarding meetings through an e-mail distribution list. Mr. Conway responded that one week before the meeting the Council would be provided a formal, final confirmation of the meeting date and time. The public hearing on December 8, 2004 will be conducted in the same manner as last year. The WCAC members will be present at the Pyle Center on the UW Madison campus and the hearing will be conducted through an audio-video connection. The hearing will be noticed in the Wisconsin State Journal and local newspapers.

Mr. Furley said he was honored to be appointed to the Council. Wisconsin has one of the best worker's compensation programs in the nation. He has been a member of Local 95 UAW at the GM plant in Janesville for 26 years where he has worked on a number of union-management issues.

Ms. Bean stated she was honored and excited about this new opportunity. The agreed bill process is a good system. She is looking forward to contributing to the success of the worker's compensation program.

Mr. Newby relayed that Emil Muelver passed away. He was a historic figure both in the labor movement and on the WCAC. A resolution will be prepared for next meeting to memorialize his service on the Council.

7. Other Business: Ms. Huntley-Cooper reported that she recently met with Representative Nass and Senator Reynolds. They are aware of the Council's meetings. Timeliness is an issue and there was a request that the agreed bill be sent to the Wisconsin State Legislature as soon as possible to allow for discussion with early August 2005 as the recommended date for submission. Ms. Huntley-Cooper will update Rep. Nass and Senator Reynolds on the progress of the subcommittees.

Mr. Newby indicated outside customers had informed him the time from filing a hearing application to holding a hearing is increasing. Mr. O'Malley explained that currently the average time (depending on location) is approaching one year. The WCD has 3 vacant administrative law judge (ALJ) positions and the number of hearing applications filed this year may be at an all time high. Mr. Buchen asked whether the WCD had identified the types of issues listed on hearing applications. Mr. O'Malley replied that information had not been collected or analyzed at this time. Ms. Knutson indicated that part of the reason for the increased number of applications involves the changes in the law regarding eligibility for benefits from the Work Injury Supplemental Benefit Fund for barred traumatic injuries, and the complexity of cases and theories of recovery alleged by the parties. Ms. Connor questioned why employees are directed to file applications for hearing for barred traumatic injuries. Mr. O'Malley explained when the law change became effective, the WCD developed procedures for handling these claims that considered ways to track the claims and that would ensure the insurance carrier or self-insured employer was raising a statute of limitations defense. He indicated that the WCD would review its procedures for these claims.

Mr. Newby questioned the schedule for filling the vacant ALJ positions. Ms. Huntley-Cooper explained that the WCD was planning an analysis of work performed by the ALJs and ways to streamline the process. A report would be completed within a month and sent to Secretary Gassman and hopefully the WCD would be able to fill the positions at that time. The WCD was looking at ways to decrease the waiting time for hearings including hiring a retired ALJ to work part-time. Mr. Newby expressed concern that the WCD's goal (as set by the Council) was to decrease the waiting time for a hearing to six months and now the wait is at twelve months, a significant increase. Mr.

O'Malley replied that since January 2002 when the two new positions were authorized, the ALJ positions have not been fully staffed and fully trained. The training period is eight to twelve weeks after an ALJ is hired. Mr. Newby indicated that Ms. Huntley-Cooper, on the behalf of the WCAC, should relay to Secretary Gassman the urgent need to fill the ALJ vacant positions.

8. Adjournment: Discussion on all agenda items concluded and the meeting was adjourned. The next meeting has been scheduled for December 8, 2004. The public hearing will also be held on that date via videoconference.